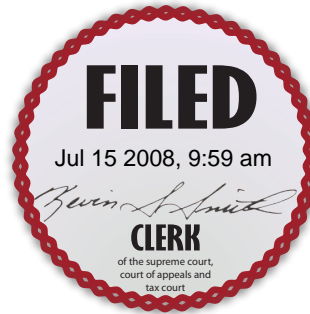


Pursuant to Ind. Appellate Rule 65(D), this Memorandum Decision shall not be regarded as precedent or cited before any court except for the purpose of establishing the defense of res judicata, collateral estoppel, or the law of the case.



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**IN THE
COURT OF APPEALS OF INDIANA**

MARY HEDGER,

Appellant-Defendant,

vs.

STATE OF INDIANA,

Appellee-Plaintiff.

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No. 15A01-0802-CR-84

APPEAL FROM THE DEARBORN CIRCUIT COURT
The Honorable James D. Humphrey, Judge
Cause No. 15C01-0705-FB-12

July 15, 2008

MEMORANDUM DECISION - NOT FOR PUBLICATION

DARDEN, Judge

STATEMENT OF THE CASE

Mary M. Hedger appeals the sentence imposed following her plea of guilty to battery with a deadly weapon, a class C felony.¹

We affirm.

ISSUE

Whether the trial court erred in sentencing Hedger.

FACTS

On May 20, 2007, while Hedger was inebriated, she initiated an altercation with her sixteen-year-old daughter, K.W. Hedger stabbed her daughter in the right thigh with a pocketknife. The wound was one inch long, one and one-half inches deep, and required six stitches. On May 21, 2007, the State charged Hedger with the following offenses: count I, neglect of a dependent, as a class B felony;² count II, battery with a deadly weapon, as a class C felony;³ and count III, interference with reporting of a crime, as a class A misdemeanor.⁴

On November 9, 2007, the parties tendered a plea agreement to the trial court. Pursuant to the plea agreement, Hedger agreed to plead guilty to count II, battery with a deadly weapon, as a class C felony. In exchange, the State agreed to dismiss the remaining counts. The plea agreement left sentencing within the trial court's discretion.

¹ Ind. Code § 35-42-2-1(a)(3).

² I.C. § 35-46-1-4(a)(1)(B)(2).

³ I.C. § 35-42-2-1(a)(3).

⁴ I.C. § 35-45-2-5.

The trial court accepted the terms of the plea agreement and ordered a pre-sentence investigation report (“PSI”). According to the PSI, Hedger had previously been convicted of the following crimes: driving under the influence in June of 1997; battery in January of 1999; battery on a child in May of 2001; neglect of a dependent in April of 2003; battery in December of 2004; and battery in July of 2005. The PSI also revealed that Hedger had committed no less than six probation violations within the past seven years.

The trial court held a sentencing hearing on January 3, 2008. Although the trial court found that Hedger’s addictions constituted a mitigating circumstance, the trial court did not give it significant weight.⁵ The trial court considered the following aggravating circumstances: 1) Hedger’s extensive criminal history; 2) that Hedger is the victim’s mother; 3) that three of Hedger’s prior offenses involve the victim in the instant offense; and 4) the effect of Hedger’s history on her daughter.⁶ Finding that the aggravators outweighed the mitigators, the trial court sentenced Hedger to eight years in the Indiana Department of Correction. The trial court ordered that five years be executed.

Additional facts will be provided as necessary.

DECISION

Hedger argues that her sentence is inappropriate in light of the nature of the offenses and her character. We disagree.

⁵ The trial court found that Hedger had not shown a commitment to address addiction problems as indicated in the PSI, which states that she attended “a couple of treatment sessions in 2005 but never completed the program.” (Tr. 36).

⁶ The trial court found that Hedger’s daughter had had significant problems with instability in her life and that these issues were at least in part due to the actions of Hedger.

We may revise a sentence authorized by statute if it is inappropriate in light of the nature of the offenses and character of the offender. Ind. Appellate Rule 7(B). “When considering the appropriateness of the sentence for the crime committed, the sentencing court should focus initially on the presumptive sentence.” *Rose v. State*, 810 N.E.2d 361, 368 (Ind. Ct. App. 2004). The trial court may deviate from the presumptive sentence based on general sentencing considerations contained in Indiana Code section 35-38-1-7.1, as well as aggravating and mitigating circumstances. *Id.* In this case, Hedger received the maximum sentence of eight years.

The nature of Hedger’s offense does not render her sentence inappropriate. The facts reveal that Hedger, while intoxicated, stabbed her sixteen-year-old daughter in the thigh. According to the probable cause affidavit and the appellee’s brief,⁷ prior to being stabbed, the victim fled from Hedger, but Hedger cornered her in her bedroom. Hedger drove a pocketknife one and one-half inches into her daughter’s body. This took considerable force and showed Hedger’s utter disregard for the victim’s physical and emotional well-being. After being stabbed, the victim fled a second time, but was apprehended by Hedger and struck in the eye. At sentencing, Hedger admitted that the altercation was, in part, due to her intoxication. But for the intervention of others, the result of Hedger’s attack could have been far more tragic.⁸

⁷ We admonish the appellant for not including a guilty plea transcript. Pursuant to rule 50(B)(1)(a) of the Rules of Appellate Procedure, the appellant is required to include the portion of the transcript that contains the rationale of decision and any colloquy related thereto, if and to the extent the brief challenges any ruling or statement of decision. The appellant’s brief challenges the trial court’s sentence, in part, due to the nature of Hedger’s offense. The guilty plea transcript would have given this court more insight into the series of events. However, we find that the evidence in the record is sufficient for us to decide the case on the merits.

The nature of Hedger's character does not render her sentence inappropriate. Hedger's chronic recidivism and the violence towards her daughter indicates that Hedger does not respect her duties as a law-abiding citizen or as a parent. Hedger has shown herself to be a danger to the community. The instant action, not including her other convictions, is her fifth battery conviction in less than ten years. Hedger's numerous convictions render her habitual offender eligible. Hedger's attacks have become progressively more serious. Prior to the instant offense, her initial battery was charged as a class A misdemeanor. Subsequently, she was charged with additional batteries, with one being charged as a class D felony. Although we acknowledge that Hedger has an alcohol addiction, due to the numerous treatment opportunities afforded to Hedger, we agree with the trial court that "Ms. Hedger will not take seriously any attempt at treatment until a significant period of incarceration has been served." (Tr. 36).

After due consideration of the trial court's decision, Hedger's sentence of eight years is not inappropriate in light of the nature of her offenses and her character.

Affirmed.

NAJAM, J., and BROWN, J., concur.

⁸ According to the probable cause affidavit, Hedger initially thrust the knife at her daughter's chest, and Hedger's mother physically intervened in order to protect her granddaughter.